

D. If a request for release of information is from a Federal Agency, as identified in E.O. 12333, authorized to conduct foreign intelligence or foreign counterintelligence activities, the transferring DoD Component shall release the information without notifying the customer, unless permission to provide notification is given in writing by the requesting Agency.

E. Whenever financial data obtained under this part is incorporated into a report of investigation or other correspondence; precautions must be taken to ensure that:

1. The reports or correspondence are not distributed outside the Department of Defense except in compliance with paragraph B.; and

2. The report or other correspondence contains an appropriate warning restriction on the first page or cover. Such a warning could read as follows:

“Some of the information contained herein (cite specific paragraph) is financial record information which was obtained pursuant to the Right to Privacy Act of 1978, 12 U.S.C. 3401 *et seq.* This information may not be released to another Federal Agency or Department outside the Department of Defense except for those purposes expressly authorized by Act.”

APPENDIX H TO PART 275—PROCEDURES FOR DELAY OF NOTICE

A. The customer notice required when seeking an administrative subpoena or summons (paragraph B. of appendix C to this part), obtaining a search warrant (paragraph B. of appendix D to this part), seeking a judicial subpoena (paragraph B. to appendix C to this part), making a formal written request (paragraph B. to appendix C to this part), obtaining emergency access (paragraph C. of appendix F to this part), or transferring information (paragraph C. of appendix G to this part), may be delayed for an initial period of 90 days and successive periods of 90 days. The notice required when obtaining a search warrant (paragraph B. of appendix D to this part) may be delayed for a period of 180 days and successive periods of 90 days. A delay of notice may only be made by an order of an appropriate court if the presiding judge or magistrate finds that:

1. The investigation is within the lawful jurisdiction of the Government authority seeking the records.

2. There is reason to believe the records being sought are relevant to a law enforcement inquiry.

3. There is reason to believe that serving the notice will result in:

a. Endangering the life or physical safety of any person.

b. Flight from prosecution.

c. Destruction of or tampering with evidence.

d. Intimidation of potential witnesses.

e. Otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or ongoing official proceeding to the same degree as the circumstances in paragraphs A.2.a. through A.2.d. of this appendix.

B. When a delay of notice is appropriate, legal counsel shall be consulted to obtain such a delay. Application for delays of notice shall be made with reasonable specificity.

C. Upon the expiration of a delay of notification obtained under paragraph A. of this appendix for a search warrant, the law enforcement office obtaining such records shall mail to the customer a copy of the search warrant, along with the following notice:

“Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this [agency or department] on [date].

Notification was delayed beyond the statutory 180-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning [state with reasonable specificity]. You may have rights under the Right to Financial Privacy Act of 1978.”

D. Upon the expiration of all other delays of notification obtained under paragraph A. of this appendix, the customer shall be served with or mailed a copy of the legal process or formal request, together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry.

“Records or information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld pursuant to a determination by the (title of the court ordering the delay) under the Right to Financial Privacy Act of 1978 that such notice might (state the reason). The purpose of the investigation or official proceeding was (state the purpose).”

APPENDIX I TO PART 275—FORMAT FOR OBTAINING BASIC IDENTIFYING ACCOUNT INFORMATION

[Official Letterhead]

[Date]

Mr./Mrs. XXXXXXXXXXXX
Chief Teller [as appropriate]
First National Bank
Anywhere, VA 00000-0000

Dear Mr./Mrs. XXXXXXXXXXXX

In connection with a legitimate law enforcement inquiry and pursuant to section 3413(g) of the Right to Financial Privacy Act